

# Powder River Basin Resource Council



Encouraging Responsible Development Today...  
For Tomorrow...

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6/6/05

Victoria Rutson  
Section of Environmental Analysis  
Surface Transportation Board  
1925 K Street, NW  
Washington D.C. 20423-0001

Re: STB Finance Docket No. 33407 - Dakota, Minnesota, and Eastern Railroad Corporation  
Construction into the Powder River Basin  
Draft Supplemental Environmental Impact Statement Comments

Dear Ms. Rutson,

Following are our comments on STB Finance Docket No.33407.

**General Comments:** The impartiality of the third party contractor for this supplemental EIS is immediately brought into question when one visits the Burns and McDonnell website. On that site, under project descriptions, the heading concerning the D, M and E expansion is "**Burns & McDonnell Keeps Historic Project on Track.**" With such a statement, Burns and McDonnell has declared that their primary goal is to have the project approved, not to provide unbiased information to the public and to the STB. It appears Burns and McDonnell are more worried about future contracts with government agencies than they are with citizen access to unprejudiced information. Which brings forth the question: who is actually paying for the EIS? Is it the Surface Transportation Board? It is well known that under certain agencies, such as the BLM, most EIS documents are paid for by the developing industry. This sort of practice again raises the question of impartiality and viability of such studies, and we hope that this is not the case in this EIS. We are not questioning the ability of Burns and McDonnell to conduct the study, but we do question their motivation.

**List of Preparers:** On a project such as this, and as required under NEPA, it would be assumed that information on the background and experience of the preparers would be a top priority to insure the trust of the public. No information on the STB employees beyond their names and position is given. Michael J. Boyles name does not appear on the STB website. The public needs to place its trust in these people and therefore needs to know if they have the capacity and knowledge to oversee such a project study. A CV with relevant experience in such matters should be presented in the EIS. The Contractors' names and degrees are provided but not their relevant experience or background. Again, this information needs to be provided if this document is to secure the public's trust. The lack of information on the preparers' experience leaves the public in the dark as to whether the best project study was done.

**Air Quality:** The decision of which model to run appears in the end, to have been based on cost. The fact that a scientific study should cross check against existing models if available appears to have been superseded by the need for a "cost effective" model. "After carefully assessing existing computer models" SEA selected the National Energy Modeling System because "since EIA agreed to run the model for the Board at no cost in this case." The IPM model was also judged as being able to "provide meaningful information". However this model was developed by EPA, in association with ICF Consulting, and was supposed to have been costly. Considering that this model assesses the potential air pollution impacts throughout the US over the next 20 years, it seems clear that all efforts should have been made to use this model as a cross check against the less extensive NEMS model. The fact that IPM uses information from NEMS would have given the results of the combination of the two models a much higher degree of scientific reliability. How much is too costly? No actual amounts are given; and given the fact that the decision will affect tens of millions of US citizens, possibly that cost was bearable. Was the EPA invited to be a cooperating agency so that they could have negotiated with ICF Consulting for a reduced cost? If not, Why not? Without the input of the EPA, this EIS loses much of the scientific, legal, and moral authority that it should be infused with. In fact, without the EPA imprimatur on this document, the viability of the air quality decision provided is under question.

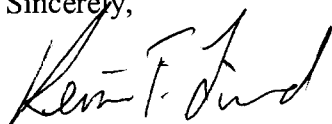
**NEMS vs. Revenues/Rates:** The study to determine average mileage savings to plants in DM & E's core markets are predicated on the 1998 decision and on the 2002 projected rates for UP and BNSF. As 2002 is now far behind us, why not use the actual rates of UP and BNSF instead of the projected ones for this study? Using projections that are seven years old when actual rates are available does not bode well for the viability of the study.

The STB decision of December 10, 1998, states "that DM& E's netback assumptions based on its worst case rate assumption appear to be reasonable". *These netback assumptions are based on an increasing rate of mills per ton-mile projected to 2007.* The April 2005 EIS states "*the NEMS model assumes a continuation of the historical downward trend of coal transportation rates over the NEMS forecast period.*" ... "*Therefore, the addition of the DM& E routes may be implicitly included in the downward transportation rate trend.*" Obviously, these two statements are not consistent.

In the above paragraph STB uses different projections of transportation costs to justify the finding needed under different sections of the proposal. For Revenue projections, the rate of return goes up. For the Air Quality projections, the model presupposes that the rate projections goes down. The STB cannot have it both ways. Which projections reflects reality? There are seven years between the statements. The recent 2005 study is still based on projections from 1998 when the real numbers are currently available. On this alone, the air quality decision should be called into question.

Thank you for the chance to comment.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin F. Lind". The signature is fluid and cursive, with the first name "Kevin" and last name "Lind" clearly legible.

Kevin F. Lind - Director